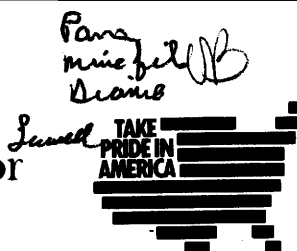




United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
SUITE 310
625 SILVER AVENUE, S.W.
ALBUQUERQUE, NEW MEXICO 87102



In Reply Refer To:

May 8, 1992

CERTIFIED MAIL RETURN RECEIPT NO:
P 965 799 273

Mr. Lowell P. Braxton, Associate Director
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203



MAY 11 1992

DIVISION OF
OIL GAS & MINING

Re: Ten-Day Notice Response, Ten-Day Notice # 92-02-352-003 TV1
Bear Canyon Mine, Permit ACT/015/025

Dear Mr. Braxton:

I have received and reviewed your response to the above referenced Ten-Day Notice (TDN) and have determined that it does not fully address the alleged violation, therefore, I am allowing an additional 10 days for a follow up response. This is based on the following:

The cross sections in question do not exist in the permit application as is verified in your response dated April 22, 1992. The description of the diversion ditches you reference at pages 7-87 and 7-87-A of the permit application do not satisfy the requirements for cross sections of diversions.

Webster's Third New International Dictionary, copyright 1986, defines cross section as: "1 a: a cutting or section across: a section at right angles to esp. the longer axis of anything b: a piece of something cut off in a direction at right angles to an axis c: a view, diagram, or drawing representing such a cutting."

30 CFR 784.29 requires: "Each application shall contain descriptions, including maps and cross sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 817.43 of this chapter.

Lowell P. Braxton

2

R645-301-722 appears to be the only section of the Utah Regulations which require cross sections. Your assertion is that this section only requires maps to show the location of the ditches. Because the Federal Regulations require cross sections of any constructed diversion your response indicates the Utah Regulations are less effective than the Federal Regulations.

If the Utah Regulations do not provide a means to require cross sections of constructed diversions, this should be explained in your response. If this is the case, a "732" action may be appropriate to remedy the situation. If, however, the Utah Regulations do require cross sections for constructed diversions, please indicate the appropriate section and how DOGM will require the Bear Canyon Mine to comply with that section.

If you have any questions or need further clarification, please contact Steve Rathbun or myself at (505) 766-1486.

Sincerely,



Robert H. Hagen, Director
Albuquerque Field Office